

materials both from this country and abroad. This edition reads better than its predecessor and benefits from tighter editing. Part one of the volume sets the scene for medical practice today. It examines how a doctor-patient relationship is established and the role of the NHS today. Part two considers consent to treatment, medical malpractice, professional discipline, and medical records and confidentiality. Part three, 'Medical law in action', is in three sections, the first of which 'The beginning of life', examines contraception, medically assisted reproduction, abortion, and negligence actions arising from events occurring before birth. The second, 'During life', considers research and organ transplantation. The final section, 'The ending of life', deals with withdrawal of treatment from competent and incompetent patients, and death.

The authors indicate that it was their intention to provide access to materials which might otherwise be unavailable to some readers. In this they have succeeded. Overall this book contains a stimulating and extensive collection.

Its depth and scope, with its widening comparative content, is likely to prove particularly attractive to the postgraduate student taking, for example, a taught masters degree in medical law. It is perhaps in its comparative element and in its value as a work of reference that the book's greatest strength lies. However, there are at present two main reasons why a tutor might hesitate before recommending this book to undergraduate students. First, the cost, which is on the steep side for an undergraduate text. Second, the sheer weight of materials, which may make the book less accessible to an undergraduate market, particularly in view of the changing approach to law-teaching in the light of the new modularised courses in English universities.

One further point is that perhaps in a text and materials book for students it is a little unfair to refer the reader back to materials in an earlier edition, as happens on page 1,217, particularly in view of the fact that the text is aimed at those who find access to materials difficult!

Nevertheless, overall this text provides extensive and incisive commentary and is an important work of scholarship in the medical law field.

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Confrontations with the reaper: a philosophical study of the nature and value of death

Fred Feldman, New York, Oxford University Press, 1992, 250 pages, £9.95 (pb)

Deathright: culture, medicine, politics and the right to die

James M Hoefler with Brian E Kamoie, Boulder, Westview Press, 1994, 291 pages, £40.95 (hb), £11.50 (pb)

When death is sought: assisted suicide and euthanasia in the medical context

The New York State Task Force on Life and the Law, May 1994, 218 pages (available for US\$15.00 including postage from Health Education Services, PO Box 7126, Albany NY 12224)

In *Confrontations with the Reaper*, Fred Feldman seeks to dispel what he regards as some common misconceptions about the nature and moral significance of death. Feldman's main targets are the Epicurean views that death is equivalent to the cessation of life, and that death cannot be an evil to the one who dies. Against the first of these views, Feldman argues that the life of a biological entity can come to an end without dying, through, for example, undergoing cryogenic freezing, fission, or fusion. Against the second of these views, Feldman defends a version of the well-known 'deprivation approach' proposed by philosophers such as Thomas Nagel (in his classic paper, 'Death', in *Mortal Questions*) (1), where the evil of death is understood in terms of the intrinsic goods it deprives one of.

In the preface of the book, Feldman explains how he was moved to think deeply about these issues by a personal tragedy – the death of his teenage daughter after a serious illness. Feldman spends considerable time

sorting out confusions which plague many discussions of the concepts of life and death, but he goes beyond a critique of other views, in his constant striving for improved analyses of these concepts. The issues are set out with exemplary clarity, and indeed, much of the book is a model of the analytic approach.

Feldman's discussion of the nature of death is the most successful and original part of the book. Instead of focusing as many writers do on what constitutes the death of a *person*, Feldman sets his sights more ambitiously on analysing 'a single concept of death that has application throughout the biological realm' (page 19). Feldman's critical review of various candidate analyses of 'life' and 'death' brings out well the heterogeneity of our concept of biological death, and his analysis of the process of *dying*, while containing certain obscurities, nevertheless serves to point the way towards a more adequate account of this process.

While Feldman admits that he finds the concepts of life and death ultimately rather mysterious, he does offer a sketch of what he takes to be a plausible materialist conception of death. According to this approach, we are all essentially material objects, and our death should be viewed as ceasing to have the important property of life: 'Death marks a profoundly important border in the history of any such subject. But ... it does not necessarily coincide with the border between existence and nonexistence. In typical cases ... formerly material objects go on existing as corpses for a while after their deaths' (page 106). Whatever philosophical merits this view might have, its moral implications are not explored in the rest of the book.

Feldman's account of the moral significance of death in Part II is, for the most part, put forward independently of his materialist approach to the nature of death, and so the book is perhaps less unified than it might have been. According to Feldman, death is evil insofar as it deprives the one who dies of the intrinsic goods he or she would otherwise have had. Feldman uses this view as the basis for his account of the morality of killing, which he develops through a critique of some popular – along with some rather bizarre – views about why killing is wrong. Feldman's 'justicized' act utilitarianism holds that killing is wrong when it decreases the extent to which individuals get the intrinsic goods they deserve. This view is then

applied briefly to cases of abortion, suicide, and euthanasia.

This kind of approach to the morality of killing is problematic for a number of reasons. It seems to me that there are cases where a person's life may have on balance more intrinsic bads than intrinsic goods, and yet death may still be an evil for such a person. As Philippa Foot has argued (in 'Euthanasia', in her *Virtues and Vices*) (2), so long as a person has at least a bare minimum of basic goods, then that person's death may still be an evil for him. Regarding the morality of killing, Feldman says too little about what it is to *deserve* intrinsic goods (such as pleasure) to make this notion clear and plausible in this context. Indeed, when applied to abortion and suicide, justicized act utilitarianism seems to yield some rather strange conclusions. For example, Feldman tells us that where an abortion has negligible effects on others, its permissibility depends on how much life and pleasure the fetus 'deserves' (page 200).

While I have reservations about its treatment of the moral significance of death, *Confrontations with the Reaper* does provide a useful critical survey of certain views on the nature of life and death. Its clarity and accessibility make it an excellent introduction for students who are thinking about such issues.

Where *Confrontations with the Reaper* casts light on theoretical issues of death and dying, *Deathright* illuminates the background to recent changes in the American political and legislative landscape surrounding end-of-life decision-making. *Deathright* is a comprehensive overview of American public policy developments on death and dying, and provides an interesting account of some of the important political, social, and psychological influences on these policy changes. Hoefler and Kamoie analyse these developments in terms of the competing forces of 'restraint, activism, and mediation', and their analysis helps explain the increasing recognition of patient autonomy in end-of-life decision-making, in the face of a culture which seems in various ways to encourage the denial of death. *Deathright* provides insight into the practical difficulties surrounding right-to-die law reform, however, it remains primarily applicable to an American context. Nevertheless, it would serve as a useful basis for comparison with a similar analysis of such policy changes in the UK and,

particularly, Australia, with the recent legalisation of active voluntary euthanasia in the Northern Territory.

Of course, these legislative changes are not all moving in the same direction. *When Death is Sought* is a report by the New York State Task Force on Life and the Law, which defends the task force's view that assisted suicide and voluntary euthanasia ought to remain criminal offences. Despite expressing respect for the importance of patient autonomy, the task force members opposed any legislative recognition of patient autonomy in end-of-life decision-making, because of their concerns about the risks which any such legislation might pose to vulnerable members of the population. The report suggests that improving facilities for palliative care is an appropriate and ethically defensible way of dealing with patients who wish to die. *When Death is Sought* addresses some of the difficult ethical questions in this area, but I must say that I remained unconvinced by its arguments against legalising assisted suicide and voluntary euthanasia.

References

- (1) Nagel T. *Mortal questions*. Cambridge: Cambridge University Press, 1979.
- (2) Foot P. *Virtues and vices*. Berkeley: University of California Press, 1978.

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Ethical issues in nursing

Edited by Geoffrey Hunt, London and New York, Routledge, 1994, 232 pages £35.00 (hc), £12.99 (sc).

Moral dilemmas are experienced in the daily practice of nursing and rarely, if at all, solved by the random teaching of bits of moral philosophy which, so claims the editor of this book, have invaded nursing curricula up and down the land. He does not believe that yet another framework of rules or the command of a largely incomprehensible 'ethics speak' can aid an already rule-bound profession in filling the moral void which he observes, and which the maintains, not without justification, characterises the health care system.

No doubt, he is right in that and in thinking that nurses need to explore freely their own experiences and 'the

conditions which create disparities between what their ordinary moral sense tells them and what they are expected to do without question' (page 5).

Rather than trying to tell people – with or without the help of moral philosophy – what theoretically is right, there may be a need for allowing them 'to discuss what is wrong, to investigate what it is that does not allow them to do what is right or, sometimes, see what is right' (page 7).

Hunt's 'negative ethics' (page 7) is about the social and political context in which nursing has to function and be accountable. He contributes a searching chapter on nursing accountability where he observes that: 'Nursing theorists have on the whole created conceptual frameworks in a political, economic and ethical vacuum and this inevitably stamps their theories with artificiality and consigns them to irrelevance' (page 132).

This is invigorating stuff and the author's commitment is undoubtedly genuine. This brings him occasionally to the borderline of appearing polemical which, however, may well be intentional in order to gain attention for questions which while not being asked for the first time, nevertheless need to be asked again and again.

The book is divided into two parts. Part I addresses specific issues such as nursing and informed consent (Taplin), the observation of intimate aspects of care (Wainwright), choice and risk in the care of elderly people (Smith), caring for patients who cannot or will not eat (Fenton), disabled people and the ethics of nursing research (Blackburn) and a nurse's view of ethical issues in HIV/AIDS epidemiology (Kennedy).

These papers follow Hunt's precept of a negative ethics by drawing on practice experiences, offering vivid examples of individual people's problems and exploring the situational context in order to 'facilitate the emergence of various standpoints out of the honest and rigorous examination of issues posed by nurses ...' (page 7).

The clarity and competence of the authors' discourse (among them four nurses, a health visitor and a dietician) no doubt owe something to their academic backgrounds and perhaps even to some acquaintance with moral philosophy!

In Part II five health care philosophers and a lawyer present general issues which include, besides the already mentioned paper on nursing